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ABSTRACT

In this speech, the author outlines recent social and judicial trends affecting the confidentiality of records and suggests methods for improving student records handling. (JF)

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AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS
105th Annual Convention
San Francisco, Calif. March 17-21, 1973

SPEAKER: Jay W. Reeve, Chairman, Counselor Education, California State University, San Jose, Calif.

TOPIC: CONFIDENTIALITY OF STUDENT RECORDS

PLACE: Room 415, Civic Auditorium

TIME: Monday, March 19, 2:30 P.M.

PROGRAM: Page 42

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SUMMARY

A. WHAT IS NEW ABOUT CONFIDENTIALITY?

1. There is a steadily rising movement to obtain federal case judgments favoring individual rights over institutional prerogatives.

2. There is an increasing accumulation of codes of ethics for the helping professions favoring case confidentiality over the need to know.

3. State and local courts are increasingly supporting professional codes of ethics protecting case confidentiality.

4. There is a national shift away from informal judicial proceedings for juveniles since the Miranda decision.

5. The new legal model has become a regression back to the former all-out adversary court style, regardless of the age or mental status or maturity level of the child defendant.

6. There has been a surge of feelings of inaffectuality and disconfirmation among administrative and supervisory school personnel.

7. School bureaucracies are still required by state and local courts to carry out traditional parent-surrogate roles.

8. There has been a broad loss of parental support for traditional school controls, such as grooming and minor conduct and discipline codes (erosion of popular sanctions for "in loco parentis").

9. There has been a serious lag and resistance by middle-class bureaucracies (schools, probation) to recognize and reduce low self-esteem among poor children.

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10. There is among mental health people a serious lack of, and often self-righteous resistance to, recognition of the need for enforced social training.

11. Concurrent with possible therapies for children with acting-out character problems comes the need for rubbing in a social conscience in the under-socialized child and family. This requires candor among treatment, educational, and enforcement agencies.

12. There is a marked effort in some states to make therapeutic and educational agencies on arm of law enforcement and simplistic control rather than focusing on prevention.

13. The new prophets of accountability and of behavior modification have declined to recognize or to make explicit their implicit or built-in moral and ethical biases or codes.

14. Frantic managerial reactions to popular value confusion presently include rigid over-control, apathy, and corresponding loss of self-respect, creativity, long-range planning, freedom to respond, and ability to hear well.

15. There is among private and public attorneys an increase in the use of, or offer to employ, the subpoena.

16. There is a still rising popular apprehension over violence to persons as well as to property. Along with this goes an inability to differentiate between raw and evaluated reports or data.

17. We are still burdened with an historical double-standard for juveniles as opposed to adults. It includes questions of individual respect, such as physical punishment and other humiliation which would never be used on parents.

18. There is a facile "pathological assumption" persisting, that childish error has no rights.

B. <u>WHAT IS NEEDED IN CONFIDENTIALITY?</u>

1. An open-system model to reduce the historical fragmentation among social institutions in the community.

2. A joint mechanism to develop a fresh statement of values and ethics sanctioned both by parents and social institutions.

3. A differentiation in school behavior codes and penalties between minor and major behavior complaints (long hair as opposed to aggravated assault).

4. Innovation of a routine pre-disposition conversation among our fragmented social departments and their clients.

5. Introduction of a common intake mechanism to reduce conflict, cost, and time among proliferated case-handling systems.

6. Use of technological innovations for a controlled-access computerized individual case data base.

7. Congruence between an overly moralizing case-punishment "head" upon a basically positive-reward "body" of treatment modalities.

8. Guarantee of a scheduled review procedure to evaluate case-confidentiality criteria and practices.

9. Relief from courtroom plea-bargaining where adversary jousting distorts case data and over-simplifies treatment needs.

10. Structured parent participation in school casework at all stages: plans, decisions, follow-through, and evaluation.

11. Evaluation of cause-and-effect in confidentiality procedures, to compare originally intended effects of secrecy with the actual consequences of secrecy or attempted secretiveness.

12. Insistence upon uncovering the heretofore inexplicit values and unexamined long-term effects of psychologists advocating only behavior modification technique, and lawyers requiring child adversary contention, as exclusive methods.

13. Introduction of weekly small-group supportive meetings for beleaguered bureaucrats.

14. Change of school discipline mode from a global judgment stance to a separate-variable motivational teaching stance (Example: Stop taking "D" students out of junior high athletics).

15. Recognition of the guiding principle that confidentiality is for the protection of the student, not the system.

16. Cooperative restatement of inadequate existing values and new values on confidentiality for individuals (Example: An existing value is to protect the job of an employee unless children are demonstrably being damaged by that person. A new value is not to protect a probationary worker who is not the best person available for working with that child population.)

17. Local position papers, and regular in-service training programs, on how to refer subpoenas to Administration (Administration has discretion, with counsel, to ignore, partially respond, or comply).

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18. Leaving non-crisis decision locus close to locus of operation as a general principle.

19. Public distinction of the crisis ethic (to preserve life and limb) from the normal-range ethic (to respect privacy and individual personality).

20. Published procedure for emergency referrals, including the crisis handling of pupil data.

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